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Massachusetts Coastal Zone Management

THE COASTAL FACILITIES IMPROVEMENT PROGRAM
(Renewal: H. 5876 -- 1987)

The Coastal Facilities Improvement Program (CFIP) provides 50% matching grants to communities for the rehabilitation or construction of public coastal facilities. The purpose of the program is to ensure that adequate facilities exist to support local economic mainstays such as fishing and tourism. Many coastal communities depend upon revenue generated by their local fishing and tourism industries. Unfortunately, these industries will be facing the real threat of decline unless the loss of adequate port facilities, recreational facilities, and public access is reversed. As a sea-dependent trade, the fishing industry cannot survive without access to the waterfront. Thus, commercial fishermen have been struggling to prevent their displacement by interests of greater financial resources, such as condominiums and office space. Types of improvements include: the repair and construction of bulkheads, piers, wharves and berthing sites; and public access and recreation projects, such as walkways, waterfront parks, boat ramps and beach design.

History

The CFIP was established within Chapter 589 of the Acts of 1983, Relative to Protection of the Massachusetts Coastline, and is administered by CZM. The program has been a huge success, thus far enabling the realization of 49 projects in 32 communities.

Status

Renewal of CFIP is a provision of H. 5876, the Open Space Bond Bill. In its current form, the bill would provide the CFIP program with 10 million dollars. H. 5876 is presently within the Senate Ways and Means Committee.

Major Concerns

The orginal appropriation of 25 million dollars was exhausted in early 1987. Anticipating this situation, CZM conducted a survey of coastal communities in 1985/86 to determine what types of projects were most needed and what the approximate individual and total costs would be. That survey (results of which are available from the CZM Office) indicates a presently known need for about 34 million additional dollars, based upon a response from 2/3 of eligible communities.

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THE COASTAL ASSESSMENT AND RESOURCE MANAGEMENT ACT
"CARMA" -- H. 5407

The purpose of H. 5407 is to facilitate the design and implementation of improved local coastal management strategies through the establishment of the Coastal Assessment and Management grant program. The program would provide grants to communities and regional planning agencies to address planning issues, to examine and update current policies and regulations, to identify problems, and develop solutions. The grants would be used to reimburse up to 75% of the total project cost. H. 5407, which consists of three components, would provide 26 million dollars.

Coastal Inventories and Assessments: $10 million. Lack of adequate data on coastal resources, such as water quality, wildlife stock, growth statistics and physical characteristics of the coast, has been identified as an obstacle for determining the cause and effects of environmental degradation and for appraising the impacts of coastal development growth. Accurate inventories will allow communities to make scientifically based long-range planning decisions. They will also determine in which areas, and to which issues, planning and management resources should be directed. Inventories and assessments will serve as the basis for the second major component of the program.

Resource Management and Implementation Planning: $15 million. These plans should assist in the retrofitting and updating of local regulations and by-laws and also establish management objectives. The program would answer a long neglected need. Plans would emphasize zoning and land use, critical areas protection, permit procedures, pollution abatement, erosion protection, and public access.

Education: $1 million. This part of the program is aimed at assisting educational, cultural and non-profit organizations to bring awareness of coastal issues to the public through published works and educational forums.

Status

H. 5407 is currently pending in the House Committee on Ways and Means.

Major Concerns

The lack of funding and staff on the local level are two primary reasons consistently cited as to why local communities are unable to conduct the research and development the management plans outlined in H. 5407. The need is evidenced by the following:

- o 1,500 miles of Massachusetts coastline -- yet only 235 miles are available to the public;
- o a 1 billion dollar commercial fishing industry and a 111 million dollar recreational fishing industry are at risk;

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- between 1983 and 1984 landings of winter flounder, striped bass and cod declined by an average of 50%;
- over 60,000 acres of shellfish beds are closed;
- tourism in Massachusetts is a 12 billion dollar industry;
- almost one-half of all construction in the state occurs on the coast.

S. 1759 - AMENDING THE OCEAN SANCTUARIES ACT

Background

The five Massachusetts Ocean Sanctuaries, established by the State Legislature, encompass the entire length of the Commonwealth's coast with the exception of Massachusetts Bay from Lynn through Marshfield. Seaward they extend the distance of Massachusetts' jurisdiction. Their establishment was in response to a growing need to protect Massachusetts' waters from the detrimental effects of activities that threaten marine life, particularly offshore oil and gas drilling, power generating stations, extraction of offshore mineral resources, and non-point source pollution. One of the specific activities prohibited within the Ocean Sanctuaries is the discharge of any new, or increased volumes of effluent from municipal wastewater treatment plants.

A problem of immediate concern is the conflict existing between prohibition of additional wastewater discharges into designated Sanctuaries, and the modification or construction of wastewater treatment facilities by state and local agencies to eliminate present or future water pollution problems. For example, the Act has been consistently interpreted to "grandfather" discharges of effluent at the volume authorized at the time of passage of the Act, but prohibits any increased volume of discharge, even if of significantly higher quality. A community cannot increase its volume of discharge in response to increased development or sewer use no matter what the quality of the effluent. Moreover, the Act prohibits an increase in discharge volume from a wastewater treatment plant, even to eliminate an existing water quality problem such as the discharge of untreated sewage from combined sewer overflows. Because of this inflexibility, municipalities have been seeking, and obtaining, special legislative exemptions from the Ocean Sanctuaries Act.

S. 1759

Concerned over the "piecemeal" method of granting such exemptions, an Ocean Sanctuaries Act Study Group was established to study the probelm of wastewater discharge into the Ocean Sanctuaries and report their findings to Secretary Hoyte of EOEA. As a result of discussions within that group, Senator Golden, et al have filed legislation to provide a variance to the prohibition in the Act. Highlights of that bill, S. 1759, include:

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* encouraging land application of wastewater to the maximum extent possible.

* excludes communities on Cape Cod from the ability to apply for a variance.

* discharge must be the only feasible alternative to existing water quality problems.

* discharge must receive a minimum of secondary treatment

* no discharge into an estuary or coastal embayment will be authorized

* discharge may not reduce ground or surface water quantities.

Status

S. 1759 is currently assigned to the Special Legislative Commission on Water Supply for review.

OPEN SPACE ACQUISITION BOND - H. 5876

The Open Space Bond, H.5876, is a comprehensive, statewide land acquisition package which both replenishes funds for existing programs, and establishes new initiatives. The need for this legislation can not be overstated. The loss of open space is, for the most part, irreversible. Almost every city and town in the Commonwealth is feeling the pressures associated with growth and development, one of which is dimishing open space and the subsequent environmental consequences (water supply, water quality, wastewater disposal, solid waste disposal....). This crisis is highlighted along the coast due to the fact that these regions are experiencing an accelerated growth rate. Between the years 1970 and 1980 the state saw a 1% growth rate while the coastal regions grew by 20%, and currently 1/2 of all construction in Massachusetts occurs along the coast. H.5876 contains several programs which are advantageous to the coast.

CFIP

The Coastal Facilities Improvement Program is a grant program providing communities with funds to rehabilitate their coastal facilities necessary for the viability of their local fishing and tourism industries, and for the adequate operation of their harbors. THE CFIP IS DISCUSSED IN DETAIL ON THE ATTACHED INFORMATION SHEET.

Coastal Land Acquisition

H. 5876 currently provides 25 million dollars for acquisition of coastal lands. Of the Commonwealth's 1500 miles of coastline, only 235 miles, or 6%, are available to the public. Between the years 1960 and 1985 coastal land developed for for non-recreational use increased by 500%. A Massachusetts Coastal Zone Management Survey found that 83% of Massachusetts residents favored either conservation of the remaining undeveloped coastline, or recreational use of the land.

Boatyard Preservation

This program is aimed at preserving the dwindling number of functioning boatyards in coastal areas of Massachusetts. Its purpose is to help boatyard owners resist the strong

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economic pressures to sell their properties to developers wishing to develop the land for non-marine related uses (condominiums, restaurants, etc...). H. 5876 would provide 2 million dollars to establish a pilot Boatyard Preservation Restriction Program which was modelled after, and is similar in operation to, the very successful Agricultural Preservation Restriction Program (ARP). Basically, the state would purchase development rights to a boatyard from its owner. Thereafter, the owner, or any subsequent owner, could only continue to use the property as a boatyard and could not develop the property for another use, or sell the property to be used for another purpose.

Other Programs

Other programs within H.5876 which will be beneficial to the coast include:

*Boston Harbor Islands $10,000,000
For recreational opportunities, increased access,and the implementation of the Boston Harbor Island State Park Plan.

*Dredging Program $6,800,000
For the continuation of the dredging program for inland waterways and harbors, thus allowing greater access for commercial and recreational uses.

*Lighthouse Preservation $2,000,000
This program, matched with federal, local, and private funds, will restore and preserve one of the most visable and aesthetically significant aspects of massachusetts: its lighthouses.

*Revere Beach Improvements $6,000,000

*Nantasket Beach Bathhouse $2,900,000

*Southern Shores Target Area $10,200,000

"LAND BANKS"- H. 5545

The current "Land Banks" legislation would provide a mechanism for communities to preserve local open space. As provided for in the bill-H.5545, a city or town could vote a small local real estate transfer tax, thereby establishing a fund, or "land bank", to be used to purchase land for conservation. The funds could be used for: acquisition, conservation or agricultural restrictions, trails,. park rehabilitation, or maintenance costs. The bill specifies that a town can choose to set the transfer tax at 1% or .5% of the purchase price of the real estate. 25% of the funds could be used for open space, 25% for affordable housing, and 50% up to the discretion of the town, to be used for either purpose.

Need

Extreme development pressures have forced most Massachusetts communities to reassess their land programs over the past several years. The total value of real estate transactions more than quadrupled in Massachusetts from 1982-1986. No single county experienced increases of less than 250%. By the year 2000, the National Planning Association projects a 17% population increase in Massachusetts to 7 million people. The environmental and economic consequences of not providing a mechanism to preserve local conservation land have been unfortunately been documented in communities across the country who now are dealing with those ramifications.

History

At least 36 cities and towns in Massachusetts have voted to seek legislative authorization for Land Banks. Many Cape Cod towns have been attempting to establish local land banks since 1984. Only Nantucket (since 1984), and Martha's Vineyard (since 1986) have land banks inoperation. Both have been extremely successful. Since its inception, the Nantucket Land Bank Commission has purchase 775 acres of land, now to be preserved, and the Martha's Vineyard Land Banks Commission has thus, far raised 5.5 dollars.

Status

H.5545 is currently before the House Committee on Ways and Means.

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PROVIDING FOR EOEA PURCHASE OF STORM DAMAGED PROPERTY

S. 1862

The purpose of S. 1862 is to provide a 10 million dollar pilot program for the Executive Office of Environmental Affairs to purchase storm damaged property on barrier beaches and floodplains which has been voluntarily offered to the program by the property owners. The value and benefit of this legislation is three-fold. First, the overriding goal is to preserve these fragile outposts and prevent future inappropriate uses, such as development. The result of acquisition is not only preservation of valuable and sensative land, but it allows those lands to serve as buffers against the elements. Barrier beaches are essential to the protection of landward areas from storm damage, accelerated erosion, and flooding. Development of these beaches has decreased their ability to provide storm protection and flood control.

The second major purpose of S. 1684 is to achieve substantial savings of tax dollars. This program benefits all the residents of the Commonwealth by eliminating the costly rebuilding and repairing of structures in damage prone areas with taxpayers' funds. It also prevents tax dollars from being used for maintenance public works projects such as access roads and sewer systems. Thus, the prevention of further development on property acquired under this program will substantially reduce future public expense.

The third purpose of S. 1684 is to assist property owners whose homes have been irreparably damaged, and for whom no other assistance programs are available. Funds would cover the cost of the property. The program provides homeowners a means to avoid rebuilding, or selling to someone else, structures in hazards prone areas.

Status

S. 1862 is awaiting action in the Senate Ways and Means Committee. This legislation was originally filed by Governor Dukakis in 1978.

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Need

* The infamous "storm of '78" in Massachusetts destroyed 1500 homes and caused major damage to 5,500 more.

* That storm cost the taxpayers 180 million dollars in direct, immediate expenses for coastal damage, two thirds of which was on barrier beaches.

* Approximately 1/2 of all construction in the Commonwealth occurs on the coast.

* Development on flood plains reduces the land's capacity to act as a buffer.

COASTAL LAND ACQUISITION

Massachusetts has one of the most restrictive coastal shorelines in the entire nation. Only twenty percent of the Commonwealth's coastline is protected through ownership by federal, state and municipal governments and non-profit land conservation organizations. Public access to the remaining eighty percent of the coast (private property) is limited to "fishing, fowling and navigation" by a 347 year old colonial ordinance. The high level of development occuring in Massachusetts today and the attractiveness of the coastline now combine to threaten the estimated six percent unprotected, undeveloped land left along the coast.

Major Concerns

- Massachusetts Coastal Frontage totals 1,500 miles.

- Protected Coastal Frontage by Owner consists of:

-- Federal	95.1 miles
-- State	68.0 miles
-- Municipal	91.4 miles (not including municipalities on Martha's Vineyard)
-- Nonprofit	48.7 miles
TOTAL	303.2 miles

- Of the 303.2 miles of protected shoreline, 54.4 miles (18%) are located on small islands (not including Martha's Vineyard and Nantucket).

- Ownership is the only permanent long-term protection available.

- Ownership of property rights is essential for provision of public access.

- Ownership enhances protection afforded by regulatory measures.

Federal Legislation: Members of the Senate have proposed $35 million for the state portion of the FY88 Federal Land and Water Conservation Fund (LWCF). The Reagan Administration had zero funded LWCF, which has provided roughly $75 million to Massachusetts to fund the acquisition and development of active outdoor recreation facilities. Since the Senate appears to want to allocate more money than the House did, a conference committee will decide on the final amount.

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S. 1338, the Trust Fund bill introduced by Senator Chafee of Rhode Island, proposes a $1 billion per year federal trust fund to acquire and preserve the nation's open spaces. The bill is based on recommendations of the President's Commission on Americans Outdoors. The main purpose of the bill is to create consistent funding to acquire land for parks and outdoor recreation facilities, protection of wetlands and rangelands, wildlife and watersheds.

State Legislation: The "Open Space Bond" bill, H. 5876, currently in the Senate Committee on Ways and Means, includes several programs which allow for coastal acquisition: Department of Environmental Management Coastal Acquisitions ($25 million); Metropolitan District Commission additions to parks and reservations ($40 million); and Department of Fisheries and Wildlife acquisitions ($35 million). Programs that will allow communities to acquire land are: Self Help ($10 million); Urban Self Help ($10 million); Municipal Recreation and Conservation Fund ($25 million); Strategic Acquisition of Vulnerable Areas ($15 million); Strategic Urban Recreation Fund ($10 million); Coastal Facilities and Improvement Program ($10 million); and Boatyard Preservation Restrictions ($2 million). Other programs, such as the Aquifer Land Acquisition Program and the Agricultural Preservation Restriction Program, could also fund coastal acquisitions, although it is not the main emphasis of either program.

The Land Banks bill, H. 5545, is currently under review by the House Committee on Ways and Means. This enabling legislation would allow communities to apply a 0.5 or 1.0% real estate transfer tax on real estate. The money collected would then be placed in two separate funds; one for affordable housing, and one for open space. Communities would be required to place 25% of the money collected in each fund, and the remaining 50% would be divided between the funds at the discretion of the community. Communities would develop joint open space and housing plans, subject to review by the Executive Office of Communities and Development and the Executive Office of Environmental Affairs before expenditures could be made.

COASTAL HAZARDS

Massachusetts has had a long history of coastal storm damage. In 1635 William Bradford described the damage of New England's first recorded hurricane. The most destructive coastal storm of recent times was the great Blizzard of 1978, a northeaster that battered the Massachusetts coast for three days. Over 330 homes were substantially damaged or destroyed and financial losses along the coast were in excess of 180 million dollars. Today, coastal property is among the most expensive real estate in the nation and the rate of development in all areas of the coastal zone has reached an all time high. A significant percentage of this development in Massachusetts occurs in flood and/or erosion-prone areas.

Major Concerns

o Massachusetts' 660 barrier beaches are composed of more than 18,887 acres of sand dunes and sand beaches.

o Relative sea level rise along the Massachusetts coast is approximately 1 foot per hundred years.

o The U.S. Environmental Protection Agency has projected that global sea level could rise from between 1.8 feet to 11.3 feet by the year 2100.

o Massachusetts presently loses approximately 65 acres of upland each year due to submergence caused by relative sea level rise.

o Between 1980 and 2025, Massachusetts will lose about 3,000 acres of upland at the present rate of sea level rise, and could lose as much as 10,000 acres if the rate of rise increases as projected.

o Massachusetts ranks 15th in the nation in the number of claims made through the National Flood Insurance Program. Over $34,020,282.00 has been paid in claims to Massachusetts policyholders.

o Approximately 80% of the National Flood Insurance Policies written in Massachusetts are in coastal communities.

o About 1.3 billion dollars of Federal Flood Insurance covers the policies written in the coastal communities of Massachusetts.

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Federal Legislation: Section 444 of the House Omnibus Housing Bill (HR4) proposes to amend the Federal Flood Insurance Act to allow structures "in imminent danger" to be either demolished and rebuilt elsewhere or relocated out of danger (pending). The Coastal Barrier Resources Act (CBRA) was signed into law on October 18, 1982 (P.L. 97-348). CBRA identifies certain undeveloped coastal barriers where federal financial assistance (including new flood insurance) is no longer available. The Secretary of the Interior is now preparing the Final Report to Congress on recommended changes to CBRA which may: enlarge existing designated units; delete existing units; or add new units. It is expected the report will be submitted within the next several months.

State Legislation: S. 1862 would provide $10 million for purchase of storm damaged property, including barrier beaches, other coastal, and floodplain property. The land would then be used for conservation and passive recreation. H. 2068 (extended within the Natural Resources and Agriculture Committee) directs the Executive Office of Environmental Affairs to develop and administer technical assistance and educational programs for owners of storm damaged property on barrier beaches. The Coastal Assessment and Resource Management Act (CARMA) (H. 5407) would provide $26 million for coastal resource inventories and assessments, development of management plans, and educational materials. CARMA remains in the House Ways and Means Committee.

CZM Efforts

The Office of Coastal Zone Management supports development of educational and financial aid programs that encourage protection of our fragile and environmentally important barrier beaches, as exemplified by all three state bills. In particular, S. 1862 would protect valuable barrier beach areas from future inappropriate use and preserve them in their natural state to allow the land to serve as a buffer against storm and flood damage. In addition, S. 1862 would eventually save substantial amounts of tax dollars by eliminating the need for costly rebuilding and repair projects in damage-prone areas.

MARINE POLLUTION

Marine pollution and coastal water quality issues affect all 1,500 miles of Massachusetts' coastline. As increasing numbers of shellfish beds are closed because of high coliform counts and other pollutants, the entire state suffers from the loss of native food sources. Access to and enjoyment of the shore by legions of vacationers is threatened by vile refuse littering our beaches, and storm induced combined sewer overflows add tons of raw sewage to our coastal waters.

Major Concerns

POLYCHLORINATED BIPHENYLS or PCBs: This class of organic compounds was used in the manufacture of capacitors, fluorescent light ballasts, flame retardants, pesticides, printing inks and carbonless paper. PCBs are extremely stable, heat resistant, non-flammable, and not very water soluble. Because PCBs are not easily broken down, they persist in the environment and are bioaccumulated in fatty tissue. There is some scientific evidence that PCBs are carcinogenic, and PCBs have been strongly associated with lowered birth rate, lowered survivability and decreased size at birth in marine organisms, such as winter flounder from New Bedford Harbor.

Federal Legislation: In 1979, EPA banned open system use of PCBs. They were not manufactured after 1977. A variety of federal legislation regulates PCBs in the environment. The Food and Drug Administration has set a limit of 2 ppm in edible portions of fish.

State Legislation: There are a number of state regulations that tend to follow EPA Region I guidelines regulating PCBs in the environment.

POLYCYCLIC AROMATIC HYDROCARBONS or PAHs: PAHs are a component of petroleum hydrocarbons that rapidly break down and can form highly reactive metabolites, which may cause cancer, birth defects and/or mutations. PAHs and other petroleum hydrocarbons are derived from petroleum and other chemical processes and constitute most of the "oil and grease" component in analyses of water and sediments. PAHs bioaccumulate in mollusks and biomagnify in predators.

Federal Legislation: None currently exists for action levels in food; bioaccumulation in test organisms does not prevent ocean disposal.

State Legislation: Levels of greater than 1% oil and grease

are targeted as problems, but regulations are confusing and difficult to enforce.

TBT/ORGANOTINS: Tributyltin (TBT) and other organotins may prove to be some of the most highly toxic marine pollutants in the environment today. Designed to keep vessel hulls clear of barnacles and algae, TBT also kills or damages fish and shellfish when it is released by anti-fouling paints in concentrations as minute as a few parts per trillion. Because of its extreme toxicity and slow release rates, TBT has proved to be very effective as an antifouling paint. But continued release from boat hulls can, and has, led to elevated levels in coastal waters.

Federal Legislation: House Bill H.R. 2210 calls for a permanent ban on use of any TBT paints on vessels less than 25 meters and seeks to control use of organotin-based marine paints on other vessels. The measure would require TBT paints to release no more than five micrograms/cm2/day and would ban the use of TBT paint additives. These restrictions would end when the U.S. Environmental Protection Agency issues its final regulations on TBT. The bill was approved by the House subcommittees on Fisheries and Oceanography and reported to the full Merchant Marine and Fisheries Committee on August 5, 1987. It will be marked up in committee on September 22.

State Legislation: None at this time.

Other Legislation: Maryland and Virginia have enacted laws which prohibit the possession, sale and use of TBT paints, with exceptions. Bills are pending in Alaska, California, New Jersey, New York, Oregon, and Washington.

PLASTICS: Hundreds of thousands of marine mammals, birds, turtles, and fish are killed every year in U.S. waters as a result of being entangled by or ingesting discarded plastics from commercial fishing and shipping operations, illegal discharges from sewage treatment facilities and other water and land-based sources. It has been estimated that 14 billion pounds of plastics are discarded at sea every year, much of which eventually washes up on shore. Plastics use continues to grow as new formulations are developed.

Federal Legislation: An international ban on plastics dumping, as proposed by the Convention for the Prevention of Pollution from Ships (MARPOL), awaits Senate ratification. Several proposed bills to study the effects and to prohibit the ocean disposal of plastics are pending in the House and Senate (S. 534, 535, 559, 560, 633 and 62 and H.R. 474, 537 and 940). H.R. 940 was reported out of the Fisheries and Wildlife subcommittee on September 16, 1987 and will be marked up in the full Merchant Marine and Fisheries Committee on September 22.

State Legislation: G.L. C.94, S.324, in conjunction with the bottle bill, provides that plastic binders for six-pack beverages must be biodegradable. H. 4186 seeks to have disposable tampon applicators made of biodegradable material.

NONPOINT SOURCE POLLUTION: Despite steady progress in the development of treatment systems for municipal sewage, as mandated by the Clean Water Act of 1972, the increasing closures of shellfish beds and beaches are evidence that other more diffuse, nonpoint sources of contamination are seriously affecting water sources. Nonpoint source pollution results from water runoff from land, precipitation, atmospheric deposition and percolation, and potential sources include agricultural, silvicultural and urban runoff, construction activities and septic systems.

Federal Legislation: The 1986 amendments to the Clean Water Act require that programs to control nonpoint source pollution be developed and implemented expeditiously.

State Legislation: H. 5828 (formerly H. 4118) proposes a Massachusetts Nonpoint Source Pollution Control Program to be run by the Department of Environmental Quality Engineering's Division of Water Pollution Control. The bill is now in the House Ways and Means Committee. Another un-numbered bill proposes a program for the control of stormwater runoff that would include $10 million to fund local project grants for storm drain construction and improvements. This bill is still in the Rules Committee.

CZM Efforts

The Office of Coastal Zone Management supports actions to reduce sources of marine pollution, to strengthen federal and state regulations, and to fund research programs that identify and treat marine pollutants in the environment. Boston Harbor cleanup efforts will be in vain unless nonpoint pollution problems are addressed and sources of pollution contained. CZM personnel are currently working in technical advisory capacities for various committees concerned with Commonwealth waterways, including Buzzards Bay, Boston Harbor, and Cape Cod Bay.

On November 17, 1987, CZM will host an Organotin Conference in conjunction with four other organizations. The conference, to be held in Woods Hole, will explore TBT issues and proposed EPA regulations.

MARINE FISHERIES

Perhaps the most sensitive indicator of the ill effects of development pressures on the edges of our continent is the condition of marine life that exists in coastal waters. Closed shellfish beds -- the result of human wastes, dwindling commercial fish resources -- the result of heavy fishing pressure, and public anxiety about eating fish -- the result of an occasionally sensationalistic news reporting system are all symptoms of unplanned-for and unregulated coastal population growth.

The regulatory agencies which deal with these matters are forced, occasionally, to make decisions that please no one by merely dividing an ever-shrinking pie. Efforts can and are being made to directly renew resources, such as restocking anadromous species upriver or newly constructed fishways and keeping embrionic lobsters alive long enough in a protected environment to give them a fighting chance in the open ocean. In general, regulatory bodies must make hard choices between various user groups -- those that exist now and those in the future.

Major Concerns

o Overfishing is a critical problem. Preliminary National Marine Fisheries Service (NMFS) figures indicate that this year's landings of haddock and yellowtail flounder are only half (to date) of last year's landings, which were historically low. Close to 96% of legally harvestable lobsters are taken each year. This means that only 4% of lobsters survive to the next molt (over the 81mm minimum carapace length).

o Conflicts between user groups, including various kinds of commercial fishermen (primarily those who employ fixed traps and nets versus those who pull otter trawls over the bottom) and the ongoing dispute between sports and commercial fishermen, continue to spill over into the legislature. Aggravating, and in some cases directly causing these confrontations, is the aforementioned shrinkage of resources.

o The shellfish industry has been burdened by natural problems such as red tide, man-made problems such as sewage, and a veritable thicket of federal and state regulatory agencies which often create confusion.

o The fishing industry as a whole has been impacted unfairly by sensational news reports concerning supposed health risks in eating fish. The media have, in some cases, failed to differentiate between documented and unarguably polluted inshore "hot spots" such as Salem, Boston and New

Bedford harbors and the clean, offshore grounds which commercial fishermen frequent.

DMF Efforts

The Division of Marine Fisheries in its capacity as a member of the Marine Fisheries Advisory Commission has, after a lengthy series of public hearings, recommended a comprehensive legislative package which, if adopted, will alleviate gear conflicts between user groups and contribute towards diminished fishing pressure. Recommendations were based on grounds of practicality, law enforcement, fairness and conservation of resources.

Specifically, DMF proposes reversal of Chapter 130, Section 31, which at this time makes mobile gear fishermen accountable for any fixed gear they catch. As a result, caught gear is often dumped on the spot. Under the new plan, if draggers accidentally pick up unmarked or "ghost" fishing gear, they would be required to transport the gear to specified "fixed gear recovery areas" ashore for return to the rightful owners. Malicious or careless dragging through fixed gear would still be illegal.

Proposed Section 31A of the same Chapter would make periodic and timely tending of fixed gear mandatory. The primary benefit of these changes would be to reduce lost (and still fishing) traps and nets and lower the incidence of gear conflicts.

New Sections 31B and 31C would, in turn, authorize the DMF to create the fixed gear recovery areas mentioned and provide for their financing.

Section 38B would, if DMF recommendations are incorporated, close loopholes in the lobster licensing law originally enacted to control the number of licenses issued. Only immediate family members could be the recipients of transferred licenses, and the Advisory Commission "shall determine the number of list and special additional licenses to be issued next year."

Finally, in an effort to simplify the shellfish regulatory tangle, DMF will be assuming the Department of Environmental Quality Engineering's shellfish role on January 1, 1988, thereby coming closer to bringing management of the resource under one roof.

OIL AND GAS DRILLING ACTIVITIES OFFSHORE MASSACHUSETTS

Georges Bank is one of the richest fishing grounds in the world, and the Massachusetts fishing fleet is responsible for almost 90% of the total U.S. catch from the Bank. In 1986, the U.S. catch was 224 million pounds, valued at $143 million and of this, Massachusetts vessels caught 196.5 million pounds valued at $124 million. There are at least 300 Massachusetts fishing vessels, employing an estimated 2,200 fishermen, who fish full or part-time on Georges Bank. A conservative estimate of the contribution the Georges Bank fishery makes annually to the state's economy is a half a billion dollars.

Despite the importance of this fishery resource, the U.S. Department of the Interior is proposing to offer for lease portions of Georges Bank and areas adjacent to the Bank for oil and gas exploration activities. In addition, the Canadian and Nova Scotian governments may be asked to permit exploratory drilling on the eastern portion of Georges Bank.

Previously, in December 1979, the Department of the Interior leased rights to drill on 63 blocks, or approximately 360,000 acres of Georges Bank. During the period July 1981 to September 1982, eight exploratory wells were drilled on the southern flank of the Bank, in water depths ranging from 200 to 450 feet. None of the wells had commercial quantities of oil or gas, and were therefore classified as "dry" holes.

Nevertheless, proposed sale 96 is scheduled for February 1989. At the present time the proposed sale area encompasses 1,014 blocks, or 5.5 million acres. These blocks are 51 to 215 miles offshore Massachusetts, and approximately 63% of the area overlaps important fishing grounds.

Major Concerns

- Due to the importance of the fishery resources and habitats in the Georges Bank region, efforts must be made to assure protection from:
  - -- discharges of drilling muds from exploratory drilling;
  - -- accidental spills of fuel;
  - -- chronic, low-level discharges of hydrocarbons from development and production wells; and
  - -- potential blowouts of oil and/or gas.

- Conflicts between the fishing industry and the oil industry must be minimized with regard to:
  - -- operation of seismic vessels;
  - -- loss of debris from supply ships and/or drilling rigs;
  - -- loss of access to fishing grounds due to rig/platform placement, gathering lines, and pipelines; and
  - -- competition for harborfront space.

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- o Marine mammal and marine bird habitats must be protected.

- o A formal mechanism for coordination and consultation with Nova Scotian and Canadian officials must be developed so as to share scientific and technical information, and to develop a comprehensive regulatory program governing drilling activities on both the U.S. and Canadian sides of Georges Bank.

Federal Legislation: S. 1412, introduced by Sen. Ernest F. Hollings (D-SC) and co-sponsored by Sen. John Kerry (D-MA), Sen. Edward Kennedy (D-MA) and Sen. Pete Wilson (R-CA), seeks to "eliminate any uncertainties with regard to the reach of federal consistency language" -- especially the on-going debate over whether or not Congress intended for offshore lease sales to be subject to review by coastal states. S. 1412 would replace the term "directly affecting" with the term "significantly affecting," which is used in the National Environmental Policy Act. In addition, the phrase "consistent to the maximum extent practicable" would be replaced with the phrase "fully consistent." The National Ocean Policy Study, a subcommittee of the Senare Commerce Committee, will hold hearings in Washington on September 29.

State Initiatives: Massachusetts has joined California, Florida and a group of environmental organizations in filing suit in federal court against the U.S. Department of Interior. The suit challenges the Department's five-year plan for opening millions of acres of the outer continental shelf for oil and gas exploration. The Petition for Review was sent to the U.S. Court of Appeals for the District of Columbia Circuit on August 27, 1987.

CZM Efforts

As the lead state agency in developing policy on offshore oil and gas activities, the Office of Coastal Zone Management comments at each of the planning steps leading up to a lease sale. In addition, CZM represents the state on two advising committees to the Department of the Interior and works with federal agencies in developing the regulations that govern any potential drilling activities. While CZM recognizes the need for the nation to seek out future energy reserves, the Office believes the approach should be well researched and reasoned. Interior has not demonstrated that Georges Bank has oil and gas potential that would warrant placing this valuable fishery resource at risk. CZM has provided technical assistance to Massachusetts Attorney General James Shannon in his efforts to have the court review the legality of the Five-Year Outer Continental Shelf (OCS) Oil and Gas Leasing Program approved in July by U.S. Secretary of the Interior Donald Hodel.

CZM also fully supports S. 1412, which attempts to clarify consistency wording to allow states their full rights under the Coastal States Management Act of 1972; CZM Director Richard Delaney will testify at the hearings on Sept. 29.

HARBOR PLANNING AND DREDGING

Harbor areas have long been centers of commerce and industry for cities and towns. Competition for space and resources characterizes the problems in Massachusetts harbors today. Increasingly, shellfishermen, marinas and commercial fishing can be found in the same harbor area vying for access to waters from limited landings, docks and piers. In order to maintain the economic viability of these maritime-related industries, we must provide access to the water's edge from both the land and the water. Landward of the shoreline, housing, commercial and water-dependent activities compete for valuable and diminishing property. The demands these competing uses place on natural resources has left many harbors in a deteriorated and overbuilt state. Decaying infrastructure must be replaced. State, federal and local agencies must coordinate their efforts to resolve the problems of one of Massachusetts' most intensely utilized areas: the harbors.

Major Concerns

HARBOR PLANNING: Planning offers communities an opportunity to resolve problems and set the direction for future use and development of harbor areas. Comprehensive planning is, however, costly and complex. Most of Massachusetts' 79 coastal communities are ill-equipped to finance and manage a planning process that may involve industrial shipping, recreational boating, fishermen, local businesses, residential property owners, environmental groups, and a host of state, federal and local boards and agencies.

Federal Legislation: The Army Corps of Engineers Harbor Management Planning Assistance Program, pursuant to Section 22 of the Water Resources Development Act of 1974 (PL 93-251), as amended.

State Legislation: The Open Space Capital Outlay (H. 5876) seeks to replenish the Coastal Facilities Improvement Program (CFIP) with $10 million. H. 5876 also includes $2 million for a pilot Boatyard Preservation Program, modelled after the Agricultural Preservation Restriction Program. The Coastal Assessment and Resource Management Act (CARMA), H. 5407, would provide $26 million for coastal resource inventories and assessments, development of resource management plans, and educational materials. There are related programs in many other coastal states including Connecticut, California and Maine.

DREDGING: Projects involving dredging are critical for maintaining the economic vitality of coastal communities with active recreational and commercial harbors. Unfortunately, the costs associated with dredging are rising, and the local share of that cost is rising even faster.

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Regulations governing dredging are exceedingly complex. Required environmental testing is expensive and produces results which are subject to broad interpretation, making the permitting of projects difficult if contaminants are present at site. Better coordination and communication on the part of state agencies and among state, federal and local agencies is essential for both the permitting and funding of dredging projects. Up-to-date engineering and scientific information must also be made more accessible.

Federal Legislation: The Water Resources Development Act of 1986 (PL 99-662) has changed Army Corps of Engineers funding of federal navigation projects to require local sponsor cost-sharing for all new dredging projects.

State Legislation: The Inland Coastal Waterways Improvement Act, Chapter 21G (H. 2401) would renew the Department of Environmental Management's current Waterways grant program by creating Chapter 21G. The program would provide $30 million for such projects as dredging, erosion control and repairs to dams and dikes. Also, the Open Space Capital Outlay bill (H. 5876) would assign $6.8 million for dredging projects.

CZM Efforts

Massachusetts Coastal Zone Management fully supports passage of the Coastal Assessment and Resource Management Act (H. 5407) and the Inland Coastal Waterways Improvement Act (H. 2401). The Open Space Capital Outlay budget includes a variety of programs beneficial to the coast, including a $10 million appropriation for CFIP and the Boatyard Preservation Program.

In an effort to foster carefully planned coastal development, CZM has established a Harbor Planning Program to provide technical assistance and planning advice to communities developing harbor plans. Scheduled regional dredging workshops, in conjunction with the recently published Dredging Handbook and the soon-to-be-established Center for Dredging Information, Policy and Planning, have been designed to provide focus for coordination of dredging-related activities. CZM water quality specialists have also played a leadership role in identifying dredged material disposal sites and strategies for Cape Cod Bay, Southeast Massachusetts/Rhode Island Sound, and Boston Harbor.

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